IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No. 7419 of 2004

For Approval and Signature:

HONOURABLE MR.JUSTICE H.K.RATHOD

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1 Whether Reporters of Local Papers may be allowed to see the judgment ?

2 To be referred to the Reporter or not ?

3 Whether their Lordships wish to see the fair copy of the judgment ?

4 Whether this case involves a substantial question of law as to the interpretation of the constitution of India, 1950 or any order made thereunder ?

5 Whether it is to be circulated to the civil judge ?

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BHAVNAGAR MUNICIPAL CORPORATION - Petitioner(s)

Versus

HALUBEN REHMANBHAI - Respondent(s)

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Appearance :

MR HS MUNSHAW for Petitioner
MR TR MISHRA for Respondent
MR UT MISHRA for Respondent

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CORAM : HONOURABLE MR.JUSTICE H.K.RATHOD

Date : 03/02/2006

ORAL JUDGMENT

1. Heard learned Advocate, Mr.Munshaw, appearing on behalf of petitioner and learned Advocate, Mr.T.R.Mishra, appearing on behalf of respondent.

2. In the present petition, petitioner – Corporation has challenged the award passed by Labour Court, Bhavnagar in Reference No.375 of 1991 dated 1st April,2004, wherein, Labour Court has granted lumpsum amount of Rs.25,000/- against the legal right of the respondent and also awarded cost Rs.250/- to be paid to respondent by petitioner – Corporation.

3. Learned Advocate, Mr.Munshaw, submitted that workman has reached the age of superannuation on 8th January,1997. He submitted that looking to the facts of this case, amount of Rs.25,000/- which has been granted by Labour Court is on higher side. He further submitted that respondent – workman is not entitled to any amount of such compensation. He also submitted that termination of respondent – workman is legal and valid and that Section 25 (F) and (G) has not been violated by the petitioner – Corporation and, therefore, Labour Court has committed gross error in granting lumpsum amount of compensation of Rs.25,000/-.

4. Learned Advocate, Mr.Mishra, appearing on behalf of respondent – workman submitted that respondent – workman was appointed as Valve Operator for 1 hour at the rate of Rs.75/- per month. Her service was terminated w.e.f. 1st May,1990 and before terminating the service, respondent – workman had completed 240 days' service. Mr.Mishra further submitted that even the mandatory provisions of Section 25 (F) and (G) has not been followed by the petitioner and, therefore, Labour Court has rightly set aside the termination order which violated the provisions of Section 25(F) and (G) of the I.D.Act. He submitted that workman has reached the age of superannuation in the year 2004 and not on 8th January,1997. Therefore, considering her monthly salary of Rs.75/- and length of service, Labour Court has rightly granted Rs.25,000/- being a lumpsum compensation in the interest of Corporation. Therefore, learned Advocate, Mr.Mishra, submitted that no error has been committed by Labour Court which requires interference by this Court under Article 227 of the Constitution of India.

5. I have considered the submissions made by both the learned Advocates and have perused the award passed by Labour Court. Before the Labour Court statement of claim was filed by respondent – workman vide Exh.3, wherein, it is stated that workman was working since more than 20 years as Valve Operator having monthly salary of Rs.75/-. The service of respondent workman was terminated w.e.f. 1st May,1990 by the petitioner – Corporation. A reply was submitted by petitioner vide Exh.7 and denied the averments made in statement of claim. The contention raised by petitioner that workman honorarily appointed on monthly wages of Rs.75/-. Before the Labour Court, workman has produced some documents vide Exh.10 and petitioner has examined one witness Shri Hareshbhai Jayantilal Vyas vide Exh.26 and another witness Shri Manharlal Chimanlal Mehta vide Exh.31. Written submissions were produced by petitioner vide Exh.34. Thereafter, Labour Court has considered the evidence on record and ultimately, Labour Court has come to conclusion that termination

of the workman concerned is violated of Section 25 (F) and (G) of the I.D.Act and no notice under Rule 81 of the Gujarat Rules,1966 has been published by petitioner at the work place and no seniority list has been prepared. Therefore, Labour Court has presumed that there is violation of Section 25(G) of the I.D.Act. The Labour Court has come to conclusion that termination of workman by order dated 1st May,1990 is violative of provisions of 25(F) and (G) and Rule 81 of the Gujarat Rules,1966. Then, Labour Court has considered oral evidence of the workman vide Exh.11 that at the time when her deposition was recorded on 8th January,1997, the workman was reached the age of 50 years and considering the date of award, Labour Court has presumed that age of superannuation has been reached by the workman concerned. Therefore, ultimately, Labour Court has granted the lumpsum amount of compensation looking to the length of service and calculated legal due amount for which the workman is entitled and, therefore, Labour Court has awarded Rs.25,000/- in favour of respondent workman.

6. I have considered the award passed by the Labour Court. The Labour Court, Bhavnagar has given cogent reasons in support of its conclusion. Labour Court has rightly appreciated oral as well as documentary evidence which are on record and finding which has been given by the Labour Court that Section 25 (F) and (G) read with Rule 81 has been violated is based on legal evidence. Therefore, looking to the entire award and considering the relief which has been granted in favour of workman, according to my opinion, Labour Court has not committed any error which require interference by this Court while exercising the power under Article 227 of the Constitution of India. Hence, there is no substance in the present petition. Accordingly, present petition is dismissed. Rule is discharged. Interim relief, if any, stands vacated.

(H.K.RATHOD,J.)

(vipul)